

September 27, 2014

Alice Gimeno-O'Brien
Senior Environmental Scientist
Brownfields and Environmental Restoration Program
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, CA 90630

Re: Site Screening Assessment Request for 500 S. Raymond Ave.

Dear Ms. Gimeno-O'Brien:

I have been provided with your letter dated Sept 18, 2014 addressed to Irving J. Pinsky and forwarded by Scott Pinsky to my attention. Scott Pinsky represents the present owners of the 500 South Raymond Ave, Fullerton property that is referenced in your letter. We understand from this letter that the DTSC has contracted with the EPA to conduct an investigation to help determine the sources and extent of groundwater contamination in the general area of Fullerton, within the boundaries of Walnut Ave, Orangethorpe Ave, State College Blvd and Richman Ave. This area includes the "site" that is the subject of your letter, identified as 500 South Raymond Ave, and described therein as the CBS Fender site.

This response letter provides you with information relating to the 500 South Raymond Ave site and neighboring area that we believe is dispositive to your site screening assessment. It includes the judicial determination reached by the Orange County Superior Court that this site neither impacts nor threatens to impact groundwater, the underlying data and conclusions from a comprehensive site assessment, and documentation showing testing and remediation work performed at the direction of the DTSC at 350 South Raymond, which is an unrelated site located directly to the north and across Valencia Blvd.

First and foremost, it has been judicially determined that the activities of CBS at the 500 South Raymond Ave site did not release, threaten to release, or create a future threat of release of contaminants of concern into the shallow aquifer. A lawsuit was filed in 2004 by the Orange County Water District, *OCWD v Northrop, et al*, in the Orange County Superior Court, Case NO 04CC00715. CBS Corporation was a defendant in that case due to OCWD's allegations that present and future groundwater contamination was the result of activities at CBS' former Fender facility at the 500 South Raymond Ave. CBS denied those allegations, and the case proceeded to trial in 2012 against CBS (and against several other companies who occupied other sites). Following ten years of litigation, a six month trial and extensive briefing, the Court ruled in favor of CBS, and issued judgment in June of 2014 in favor of CBS and against OCWD. The Court's Statement of Decision contains a factual finding that the 500 South Raymond Ave site formerly occupied by CBS-Fender does not pose a present or future threat to groundwater. The Court's Statement of Decision and Judgment in favor of CBS are attached. I direct you to the following

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language in the Statement of Decision that relates to findings applicable to the 500 South Raymond site: Page 43, Line 22 through Page 45, Line 20; Page 50, Line 22 through Page 53, Line 13; and Page 72, line 7 through Page 74, Line 28.

This judicial determination was based not only on facts pertaining to CBS's period of ownership of the site, but also was based on recent data gathered in cooperation with public agencies. As referenced in the Statement of Decision, the 500 South Raymond Ave site underwent a comprehensive site assessment in 2010-2011. A Site Investigation Summary dated January 30, 2012 was prepared by Daniel B. Stephens & Associates ("Stephens Site Assessment Report"), and a copy of this report was previously forwarded to DTSC Supervisor Eileen Mananian on April 12, 2012. The Stephens Site Assessment Report outlines extensive soil and groundwater testing at the site and peripheral areas. This testing was performed in cooperation with public entities, and split samples were taken by OCWD during this testing. The Stephens Site Assessment Report concludes that there was no impact to groundwater from 500 South Raymond Ave. The Stephens Site Assessment Report with exhibits accompanies this letter.

The Stephens Site Assessment Report also addresses the environmental impact from the neighboring property of 350 S. Raymond, formerly operated by Chicago Musical Instruments ("CMI"). In contrast to CBS' operations, which used mostly wood, CMI's operations consisted of working with metal and chroming activities in the manufacture of brass instruments. The DTSC has been aware of the impact of CMI's contamination for many years, and has conducted extensive testing and remediation efforts at the former CMI site. The DTSC hired AMEC as a contractor to perform work at 350 South Raymond Ave. Although the full profile of the DTSC-directed work at the former CMI site could be found in the DTSC's own files, I provide with this letter two AMEC documents dated July 19, 2013 and December 2, 2013 that reflect the work performed at the CMI site. Past soil and vapor extraction efforts at the direction of the DTSC have resulted in the removal of tens of thousands of pounds of contaminants from that location, including PCE and TCE. The judicial determination in *OCWD v Northrop, et al.*, that the 350 South Raymond Ave site previously occupied by CMI was a) the source of extensive contamination of the soil and groundwater in the area; and b) the site of extensive remediation, is corroborated by the Stephens Site Assessment Report and the DTSC's own actions.

I am hopeful that this letter is a dispositive response to your September 18, 2014 letter, as further investigative activity by the DTSC at 500 South Raymond Ave does not appear to be appropriate or warranted. By copy of this letter to Scott Pinsky, I am apprising the present property owners of the foregoing information and conclusions. After discussions with Mr. Pinsky, I am convinced that the present site owners are in agreement with the positions articulated herein. Contact for further information or coordination may otherwise be made through my office.

Very truly yours,

BOWMAN AND BROOKE LLP

Larry Ramsey

Larry R. Ramsey

LRR/ssl

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Enclosures

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